

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 17-cr-96-pp

v.

MARCELLO MAYS,

Defendant.

**ORDER DENYING DEFENDANT'S MOTION TO RECONSIDER DENIAL OF
MOTION FOR COMPASSIONATE RELEASE (DKT. NO. 472) AND TAKING NO
FURTHER ACTION ON LETTER REQUEST FOR INFORMATION
REGARDING RETURN OF PROPERTY (DKT. NO. 473)**

On July 20, 2020, the court denied the defendant's *pro se* motion for compassionate release. Dkt. No. 452. At that time, there were eight inmates at his institution—FMC Lexington—who were confirmed positive for COVID-19 and 232 had recovered. *Id.* at 2. On December 21, 2020, the court received a letter from the defendant, which it construes as a motion to reconsider. Dkt. No. 472. The defendant reported that there was a "progressing" number of confirmed cases and deaths at FMC Lexington. He says that he has high blood pressure (which the court knew about and addressed in its July order) and that he is "pre-diabetic." *Id.* at 1. He asserts that he is not a danger to the community, arguing that before he self-surrendered to serve his sentence he had been working and going to college. *Id.* He provides citations to some cases, *id.* at 2, reiterates that he has a family history of heart disease and liver failure (which the court addressed in its July order) and says he has a release plan. *Id.*

at 3. He asserts that as of the time of his letter, there were 317 active cases of the virus at Lexington and that there had been twelve deaths. Id.

The defendant attached to his letter a single page of clinical notes dated March 25, 2020 from a Dr. Thompson, showing that the defendant has hypertension and prescribing him potassium chloride daily for ninety days. Dkt. No. 472-1.

The court assumes that the defendant is asking the court to reconsider its denial of his motion for compassionate release. The defendant has provided the court with no reason to reconsider. The court was aware of the defendant's high blood pressure when it ruled on the motion in July. It was aware that he had a release plan. It was aware of his alleged family history of heart disease and liver failure. As of the date the court writes this order, the BOP reported that there are ten inmates and seven staff members at Lexington who have active cases of the virus; 736 inmate and seventy staff have recovered and nine inmates have died. <https://www.bop.gov/coronavirus/> (Under "Full breakdown and additional details . . .").

The court denied the defendant's motion because while he has high blood pressure, there is no clear evidence that high blood pressure—with no other symptoms—makes a person more vulnerable to severe illness if infected. The court also found, given the defendant's criminal history and offenses, that the §3553(a) sentencing factors militated against reducing the defendant's sentence. Nothing in the defendant's motion to reconsider gives the court reason to change its views. The court will deny the motion to reconsider.

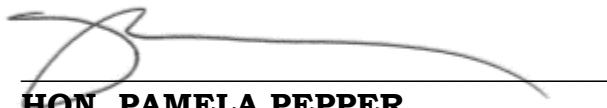
On January 4, 2021, the court received a letter from the defendant, asking how he could obtain a gold necklace that was taken from him at the time of his arrest. Dkt. No. 473. On January 12, 2021, the government responded that on January 6, 2021, the FBI agent involved in the case had sent the defendant a certified letter explaining how his family could obtain his property and providing the defendant with the agent's contact information. Dkt. No. 475. The court will take no further action on the defendant's request, because the government has provided the necessary information.

The court **DENIES** the defendant's motion to reconsider its denial of his motion for compassionate release. Dkt. No. 472.

The court will take no action on the defendant's letter request for information about how to obtain his property. Dkt. No. 473.

Dated in Milwaukee, Wisconsin this 8th day of February, 2021.

BY THE COURT:



HON. PAMELA PEPPER
Chief United States District Judge